



**Briefing: KDHE's Roles in Elective Abortions: Regulating health facilities, Informed Consent  
and Statistical Reporting  
Senate Federal and State Affairs Committee  
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Chairman LaTurner and members of the Committee, thank you for the opportunity to brief you about the roles KDHE plays in elective abortion processes in Kansas. As mentioned in the title of this presentation, KDHE, as the public health agency for Kansas, has 3 major roles: facility oversight, informed consent and statistical reporting.

**Facility Oversight:**

Key responsibilities for managing Kansas requirements for performing abortions (record keeping, informed consent, medical appropriateness, abuse reporting) lies with individual physicians, regulated by the Board of Healing Arts. The KDHE health facilities program develops and enforces regulations related to health facilities such as hospitals, home health agencies, ambulatory surgical centers, and other health care providers. Abortion clinics can be licensed as ambulatory surgery centers and hospitals occasionally perform abortions in the event of a medical emergency. Field staff document compliance with state regulations and federal certification standards through surveys. This program conducts investigations of allegations of abuse, neglect, or exploitation in all health care facilities. The work of this program is heavily directed by the Centers for Medicare and Medicaid Services.

**Update:**

The 2011 Kansas legislature passed a bill that is codified at K.S.A. 65-4a01 *et seq.* that requires the KDHE to license abortion facilities. The KDHE adopted regulations pursuant to K.S.A. 65-4a09, but implementation of those regulations was stayed by the Shawnee County District Court in lawsuit: Hodes & Nauser, MDs, P.A.; Herbert C. Hodes, M.D.; and Traci Lynn Nauser, M.D., Plaintiffs v. Robert Moser, M.D., Secretary, KDHE; Stephen Howe, D.A., Johnson County; and Derek Schmidt, A.G., State of Kansas, Defendants, Case No. 2011-CV-001298.

In that case the Plaintiffs challenged the promulgation of final rules governing the licensing of abortion facilities. The Court granted a stay that prevented the KDHE from licensing of abortion facilities in the state and enforcing the regulations. That stay is still in effect. It can be expected that whatever the district court decides, the decision will be appealed. The matter is in a holding pattern awaiting the completion of discovery in the case.

**Informed Consent**

KDHE manages the Women's Right to Know (WRTK) program per KSA 65-6708 that provides required information for women to view 24 hours prior to having an abortion procedure. Information on the WRTK website includes a directory of services, prenatal source material, a DVD of the document **If You are Pregnant** that provides information about the normal development of your unborn child and about the methods and risks

of abortions and medical risks of childbirth, a prenatal image gallery and prenatal videos, all geared toward providing information so the woman can make an informed decision. [www.womansrighttoknow.org](http://www.womansrighttoknow.org). Providers are required to record the number of certifications when a patient has been provided the materials and report to KDHE these certifications as a part of the data collection on abortions in Kansas.

### **Data collection**

KSA 65-445 requires that physicians, ambulatory surgical centers and hospitals report abortions they perform to KDHE via a web-based electronic reporting system (or paper forms if 5 or fewer events/year). Data collected does not include personal identifiers and uses a standard collection form containing demographic, procedural and Kansas-specific data items. Reports summarizing abortion information include 1) a preliminary report, published in March of each year to provide basic tallies for policy decision-making and 2) an annual report encompassing final year tabulations. Statistics are used by the public health community to estimate fertility and teenage pregnancy rates among other maternal and child health estimates. In addition, the number of certifications for WRTK materials given to patients are reported. Finally, summary information on judicial waivers of parental consent for minor women are reported to KDHE.

Thank you and we will be available for questions.